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APPLICATION OF

RAPPAHANNOCK ELECTRIC COOPERATIVE

CASE NO. PUE000088

**For approval of an Electricity
Retail Access Pilot Program**

REPORT OF ALEXANDER F. SKIRPAN, JR., HEARING EXAMINER

July 6, 2000

Recently, the Commission approved retail access pilot programs for Virginia Power and American Electric Power. Hoping to take advantage of the public education and opportunities for publicity, Rappahannock voluntarily filed this application. At hearing, the parties offered a stipulation agreement, which purports to be a fair and reasonable resolution of all of the issues presented in this proceeding.

HISTORY OF THE CASE

On February 8, 2000, Rappahannock Electric Cooperative (“Rappahannock” or “Cooperative”), by counsel, filed an Application for approval of an electricity retail access pilot program (“Pilot Program”).¹ As proposed, Rappahannock’s Pilot Program was designed to offer up to 875 of its residential customers, 15-20 of its small commercial customers, and 1-10 of its industrial customers the opportunity to select an energy service provider other than the Cooperative.² Rappahannock estimated that Pilot Program participants would represent approximately five megawatts of load.³ On February 29, 2000, the Commission issued its Order Establishing Procedural Schedule in this proceeding in which it directed the Cooperative to give notice, established a procedural schedule, assigned the matter to a Hearing Examiner, and scheduled the matter for public hearing on May 18, 2000.

Protestants in this case include (i) Bear Island Paper Company, L.P. (“Bear Island”), (ii) Virginia Electric and Power Company (“Virginia Power”), and Michel A. King. On March 31, 2000, the Division of Consumer Counsel, Office of the Attorney General (“Attorney General”) advised the Commission and the parties that it intended to participate in this proceeding.

On April 20, 2000, Rappahannock filed a Motion for Partial Suspension of Procedural Schedule. In its motion the Cooperative asked that the scheduled May 18, 2000, hearing date be

¹ Exhibit Company-2.

² *Id.* at 4-5.

³ *Id.* at 4.

convened solely for the purpose of receiving public comments and that all other dates in the procedural schedule be suspended to provide the parties an opportunity to resolve the remaining issues. Hearing Examiner Rulings dated April 20, 2000, and May 16, 2000, granted Rappahannock's motion and rescheduled the evidentiary hearing for June 21, 2000.

Hearings were convened on May 18, 2000, and June 21, 2000. Representing Rappahannock at these hearings were James P. Guy, II, Esquire; John A. Pirko, Esquire;⁴ and J. R. Yeaman, III, Esquire. Kodwo Ghartey-Tagoe, Esquire, and Karen L. Bell, Esquire,⁵ appeared on behalf of Virginia Power. Michel A. King⁶ appeared *pro se*. Rebecca W. Hartz, Esquire, and John F. Dudley, Esquire,⁷ appeared on behalf of the Attorney General. Sherry H. Bridewell, Esquire, and C. Renae Carter, Esquire, appeared on behalf of the Staff. Transcripts of both hearings are filed with this Report.

SUMMARY OF THE RECORD

The purpose of Rappahannock's Pilot Program is to give customers "an opportunity to gain experience in selecting a retail supplier of electricity generation services."⁸ Through the Pilot Program Rappahannock intended "to collect valuable information about and gain experience with the infrastructure and procedures necessary to support a competitive market for generation services in Virginia."⁹ Furthermore, Rappahannock sought to implement its Pilot Program at approximately the same time Virginia Power and American Electric Power implement their pilot programs in Virginia. The Cooperative believed that timing its Pilot Program to begin with the other Virginia pilot programs would permit Rappahannock "to take advantage of mutually beneficial public education and publicity opportunities."¹⁰

Consequently, Rappahannock proposed to offer the opportunity to select an energy service provider other than the Cooperative to about 1.3% of its 70,500 customers. As originally submitted, Rappahannock planned to limit the number of participants solicited to 2,000 randomly chosen residential customers, 100 randomly chosen small commercial customers, and all 125 industrial customers.¹¹ If the initial solicitation failed to produce the desired level of participation (*i.e.*, 875 residential customers, 15-20 small commercial customers, and 1-10 industrial customers), then an additional 1,000 randomly selected residential customers would be solicited.¹²

⁴ Mr. Pirko appeared only at the May 18, 2000, hearing.

⁵ Ms. Bell appeared only at the June 21, 2000, hearing.

⁶ Mr. King appeared only at the May 18, 2000, hearing.

⁷ Mr. Dudley appeared only at the June 21, 2000, hearing.

⁸ Exhibit Company-2, at 3.

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 5-6.

¹² *Id.*

Rappahannock further submitted that it would prepare a list of Pilot Program participants and make this list available to competitive energy service providers. Each participant would be given sixty days to select a competitive energy service provider or be replaced as a Pilot Program participant.¹³ Participants would have the right to switch energy service providers once every sixty days.¹⁴

For purposes of its Pilot Program, Rappahannock offered unbundled rates for Schedule A (Farm, Home and Civic Service), Schedule B (Small General Service), and Schedule LP (Large Power Service).¹⁵ Generally, Rappahannock unbundled its rates by subtracting what it determined to be the unit prices for purchased power from the bundled rate to arrive at a distribution delivery charge.¹⁶ To the distribution delivery charge, Rappahannock added a wires charge, calculated to equal the Cooperative's above market power costs.¹⁷ Thus, under Rappahannock's proposed methodology, the sum of unbundled rates for distribution delivery service, wires charge, transmission, and market generation equals the bundled rates of the Cooperative.¹⁸

On February 8, 2000, along with its Application, Rappahannock filed the direct testimony of five witnesses.¹⁹ Cecil E. Viverette, Jr., president of Rappahannock, provided general background information and an overview of Rappahannock.²⁰ Mr. Viverette also offered an overview of the Cooperative's Pilot Program and its goals.²¹ Kent D. Farmer, vice president and chief operating officer of Rappahannock, explained the structure of Rappahannock's Pilot Program, including the Cooperative's proposed terms and conditions.²² D. Richard Beam, manager of power supply at Old Dominion Electric Cooperative, discussed load profiling and the balancing and settlement process.²³ James H. Drzemiecki, director in the strategic change utilities practice of PricewaterhouseCoopers L.L.P., supported the proposed stranded cost quantification mechanisms and Rappahannock's proposed unbundled retail rates.²⁴ Jack D. Gaines, vice president and manager of the utility rate and financial services department of Southern Engineering Company, developed the methodology for unbundling Rappahannock's retail rates.²⁵ Mr. Gaines also prepared the unbundled cost of service study for the Cooperative.²⁶

¹³ *Id.* at 9.

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 15.

¹⁶ *Id.* at 15-16.

¹⁷ *Id.* at 16.

¹⁸ *Id.*

¹⁹ The testimony of a sixth witness, Daniel M. Walker, subsequently was withdrawn and replaced by the Supplemental Direct Testimony of D. Richard Beam.

²⁰ Exhibit CEV-4, at 2-4.

²¹ *Id.* at 5-7.

²² Exhibit KDF-5.

²³ Exhibit DRB-6.

²⁴ Exhibit JHD-7; Exhibit JHD-P-8.

²⁵ Exhibit JDG-9; Exhibit JDG-P-10.

²⁶ *Id.*

On May 17, 2000, Rappahannock filed the Supplemental Direct Testimony of Mr. Beam.²⁷ In his supplemental testimony, Mr. Beam adopted portions of the prefiled direct testimony of Daniel M. Walker pertaining to the operation of Old Dominion Electric Cooperative.²⁸

On June 5, 2000, the Staff filed the testimony of four witnesses. Howard M. Spinner, senior utilities analyst, division of energy regulation, offered several recommendations regarding Rappahannock's Pilot Program. First, Mr. Spinner agreed with the Cooperative's recommended pilot size of approximately 1.3% of its retail customers or 5 MW of its load.²⁹ Second, Mr. Spinner maintained that Rappahannock's proposed market price projection methodology should be rejected.³⁰ Instead, Mr. Spinner proposes a market price projection methodology consistent with the methodology utilized in Virginia Power's pilot program.³¹ Third, Mr. Spinner commented on the structure of Rappahannock's wires charges.³² As a rule, Mr. Spinner believes that wires charges should vary by season. Nonetheless, because the current rate structure for Rappahannock does not vary by season, and because wires charges are not permitted to fall below zero, in this case Mr. Spinner supported wires charges that do not vary by season.³³ Fourth, Mr. Spinner accepted Rappahannock's proposed program for load profiling and recommended that the Cooperative be required to track and report to the Staff the results of physical and financial settlements with each marketer.³⁴ Finally, Mr. Spinner endorsed Rappahannock's proposed program for metering and billing, subject to the modifications proposed by Staff witness Henderson.³⁵

Rosemary M. Henderson, senior utilities analyst, division of energy regulation, addressed (i) retail rate unbundling and Rappahannock's underlying cost of service study, and (ii) the terms and conditions for service proposed by Rappahannock for its Pilot Program. Ms. Henderson took issue with the cost of service study used by Rappahannock in this case. Specifically, Ms. Henderson questioned the use of projected power costs and the inclusion of certain expenses related to the LP-2 class.³⁶ Ms. Henderson recommended that "[i]f the Commission approves a level of power cost different than presented in the Cooperative's application, a copy of a cost of service study including the revised power costs and the removal of LP-2 expenses should be filed with any revised tariffs to reflect this change."³⁷

²⁷ Exhibit DRB-11.

²⁸ *Id.*

²⁹ Exhibit HMS-12, at 3, 11-14, 39.

³⁰ *Id.* at 3, 14-32, 39.

³¹ *Id.*

³² *Id.* at 3, 32-34, 39.

³³ *Id.*

³⁴ *Id.* at 3-4, 34-37, 39-40.

³⁵ *Id.* at 4, 38, 40.

³⁶ Exhibit RMH-13, 5-8; Exhibit RMH-P-14, 5-8.

³⁷ Exhibit RMH-13, 8; Exhibit RMH-P-14, 8.

Ms. Henderson recommended several changes to Rappahannock's proposed terms and conditions. First, Ms. Henderson asserted that Rappahannock's proposed \$140 annual fee charged to competitive energy providers be reduced to a one-time fee of \$50.³⁸ Second, Ms. Henderson opposed imposition of an unspecified fee on Pilot Program participants when they change from one competitive energy provider to another.³⁹ Third, Ms. Henderson disagreed with Rappahannock's proposed new charge for Pilot Program participants that request off-cycle meter readings.⁴⁰ Finally, Ms. Henderson offered comments on several terms and conditions including: (i) responsibilities of energy service providers, (ii) load profiling, balancing and settlement, (iii) information provided by Rappahannock at enrollment, (iv) customer enrollment by an energy service provider, (v) special conditions relating to the Pilot Program, (vi) metering and meter services, (vii) customer billing, (viii) collections, and (ix) electric line extensions and installations.⁴¹

Diane W. Jenkins, principal research analyst, division of economics and finance, addressed the status of the interim rules regarding retail access pilot programs, consumer education, standards for electronic data interchange, Rappahannock's proposed customer enrollment process, and reporting requirements for the Cooperative's Pilot Program.⁴² Ms. Jenkins presented five recommendations concerning Rappahannock's Pilot Program.⁴³ First, Rappahannock should be required to conform its Pilot Program rules to the rules adopted by the Commission in Case No. PUE980812.⁴⁴ Second, the Customer Education Working Group's Consumer Education Plan should be adopted for Rappahannock's Pilot Program.⁴⁵ Third, the Commission should adopt and all energy suppliers participating in Rappahannock's Pilot Program should adhere to electronic data interchange guidelines as developed by the Virginia Electronic Data Transfer Working Group.⁴⁶ Fourth, residential customers should not be classified as Pilot Program participants until they have enrolled with a competitive energy service provider.⁴⁷ Lastly, Rappahannock should be directed to provide semi-annual reports to the Commission regarding its Pilot Program containing information as may be directed by Staff.⁴⁸

The final Staff witness, Patrick W. Carr, principal public utility accountant, division of public utility accounting, analyzed the Strategic Plan Initiative ("SPI") of Old Dominion Electric Cooperative ("ODEC") and its impact on Rappahannock and its customers.⁴⁹ Mr. Carr expressed Staff's concern that the SPI, which is designed to recover ODEC's stranded costs by January 1, 2004, places

³⁸ Exhibit RMH-13, 9-11; Exhibit RMH-P-14, 9-11.

³⁹ Exhibit RMH-13, 11-12; Exhibit RMH-P-14, 11-12.

⁴⁰ Exhibit RMH-13, 12-14; Exhibit RMH-P-14, 12-14.

⁴¹ Exhibit RMH-13, 14-20; Exhibit RMH-P-14, 14-20.

⁴² Exhibit DWJ-15.

⁴³ *Id.* at 10-11.

⁴⁴ *Id.* at 2-3, 10.

⁴⁵ *Id.* at 3-5, 10.

⁴⁶ *Id.* at 5-7, 10.

⁴⁷ *Id.* at 7-9, 11.

⁴⁸ *Id.* at 9-11.

⁴⁹ Exhibit PWC-16.

Rappahannock's customers at risk of overpaying these costs.⁵⁰ The Virginia General Assembly provided all electric utilities operating in Virginia, including Rappahannock, with the opportunity to recover stranded costs through the operation of capped rates, which may be in place through 2007, and through the operation of wires charges, which are designed to recover stranded costs from customers purchasing electricity from competitive energy service suppliers.⁵¹ Consequently, Rappahannock may find itself in the position of having recovered all of its stranded costs through the SPI, but continuing to use legislatively mandated capped rates and wires charges.

On June 12, 2000, Rappahannock prefiled the rebuttal testimony James. H. Drzemiecki. However, Mr. Drzemiecki's rebuttal testimony was not offered into evidence at the hearing.⁵²

At hearing, Rappahannock, the Staff, the Attorney General, and Mr. King (collectively, "Stipulating Participants") jointly submitted a proposed Stipulation ("Stipulation"), which resolved all of the issues in this case.⁵³ More specifically, the Stipulation states:

The Stipulating Participants believe that this Stipulation will result in a fair and reasonable resolution of all of the currently outstanding issues in Rappahannock's Pilot Program; will provide for just and reasonable market prices, by customer class, that will be used to set the "Wires Charges" for participants in the Pilot Program; will establish a Pilot Program of a size and scope to help Virginia's preparations for the transition to retail competition; will allow the Stipulating Participants to move ahead with implementing the Pilot Program as directed by the Commission, as well as studying issues related to the transition to a competitive electric market as provided in the recently enacted Virginia Electric Utility Restructuring Act of 1999 (the "Act"); and will efficiently and expeditiously resolve the issues presented in this proceeding.⁵⁴

In addition, the only other parties to this case, Virginia Power and Bear Island signed statements attached to the Stipulation stating that they had reviewed the Stipulation and did not object.⁵⁵

Among other things, the Stipulating Participants agreed as follows:

1. Market Prices for Generation – Rather than choosing a specific methodology for determining market prices, the Stipulating Participants adopted market prices, which they believe are consistent with those developed for use in Virginia Power's Pilot

⁵⁰ *Id.*

⁵¹ *Id.*; *See*, Va. Code §§ 56-582 through 56-584.

⁵² Guy, Tr. at 18.

⁵³ Exhibit Company-1.

⁵⁴ *Id.* at 1-2.

⁵⁵ *Id.* at 1, 9-10.

Program.⁵⁶ These prices are \$0.04766 per kWh for residential customers, \$0.04363 per kWh for small commercial customers, and \$0.03684 for industrial customers.⁵⁷

2. Precedential Effect – The final order to be issued in this case should contain a disclaimer as to the precedential effect of actions taken and policies established in this case.⁵⁸
3. Reporting Requirements – Rappahannock agreed to develop and implement reporting requirements consistent with the Commission’s Interim Pilot Rules, as adopted in Case No. PUE980812, and agreed to provide the information requested by Staff.⁵⁹
4. Cost of Service Study – The Cooperative agreed to file a revised cost of service study and revised tariffs to reflect July 1, 1999, generation costs, stipulated market prices, and exclusion of Bear Island distribution plant.⁶⁰
5. Pilot Program Size – The size of Rappahannock’s Pilot Program will be as proposed by the Cooperative.⁶¹
6. Subscription Mechanism – All customers solicited will be eligible to shop. Solicitations will continue until 875 customers select a competitive energy service provider. The solicitations will be timed to occur 90 days after the initial solicitation and at 60-day intervals thereafter.⁶² Request to Participate postcards will be mailed to customers and will be available in Rappahannock’s business offices.⁶³
7. Interruptible Customers – Interruptible customers that elect a competitive energy service provider and then elect to return to Rappahannock for energy service, will be permitted to return as an interruptible customer.⁶⁴
8. Fees, Terms and Conditions – Rappahannock stipulated that it will conform all charges, fees and allocations with the Interim Pilot Rules adopted in Case No. PUE990812.⁶⁵ Furthermore, the Cooperative agreed: (i) to remove annual registration requirements and annual fees for competitive energy service providers, (ii) to clarify that charges for the use of advanced metering will be determined as described in Rappahannock’s

⁵⁶ *Id.* at 2-3.

⁵⁷ *Id.*

⁵⁸ *Id.* at 3.

⁵⁹ *Id.* at 3-4.

⁶⁰ *Id.* at 4, 5.

⁶¹ *Id.* at 4.

⁶² *Id.* at 4-5.

⁶³ *Id.* at 7.

⁶⁴ *Id.* at 5.

⁶⁵ *Id.* at 6.

General Terms and Conditions, (iii) to eliminate the proposed charge for off-cycle meter readings, and (iv) to institute a one-time registration fee of \$50 for competitive energy service providers for the Pilot Program.⁶⁶

9. ODEC's SPI – Stipulating Participants neither endorse nor oppose ODEC's SPI.⁶⁷
10. Customer Payment History – The Pilot Program will be amended to state that “[u]nder no circumstances will the Cooperative release customer payment history or credit information to [competitive energy service providers] without the customer’s authorization.”⁶⁸
11. Transportation Service – Competitive energy service providers will be responsible for all transportation services, including ancillary services, needed to deliver energy to its customers.⁶⁹
12. Rappahannock as an Energy Service Provider – Neither Rappahannock nor any wholly-owned subsidiary will participate in the Pilot Program as a competitive energy service provider.⁷⁰

The Stipulating Participants viewed the Stipulation as an interrelated package.⁷¹ Therefore, in the event the Hearing Examiner or Commission determines not to accept and approve the Stipulation in its entirety, the Stipulating Participants asked that they be given the opportunity to either negotiate a modified stipulation or be permitted to withdraw support for the Stipulation and to litigate these issues.⁷² In addition, the Stipulating Participants agreed to the admission of all prefiled direct and supplemental direct testimony into the record without cross-examination, unless the Hearing Examiner or Commission determines not to accept and approve the Stipulation in its entirety.⁷³ A copy of the Stipulation is attached to this report.

Consequently, at hearing, all prefiled direct and supplemental direct testimony was marked and entered into the record without cross-examination.

DISCUSSION

⁶⁶ *Id.*

⁶⁷ *Id.* at 7.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 8.

⁷² *Id.*

⁷³ *Id.*

Based on Rappahannock's application and based upon a review of the record, I find that the Stipulation offers a reasonable and just resolution to all of the issues in this case. In essence, believing that the public interest is best served by implementing a pilot program in a timely fashion, the parties to this case have chosen to build upon the Commission's recent decisions concerning pilot programs for Virginia Power and American Electric Power, and the adoption of Interim Pilot Rules. Though there are differences as to policy and methodology, the parties were able to arrive at reasonable end results. Moreover, a timely implementation of Rappahannock's Pilot Program will enable the Cooperative, consumers, competitive energy suppliers, the Attorney General, and the Staff to gain valuable experience. This experience should facilitate further resolution of the remaining policy and methodological differences.

I therefore **RECOMMEND** that the Commission enter an order that:

- (1) **ADOPTS** the findings of this Report;
- (2) **APPROVES** Rappahannock's Pilot Program as modified by the attached Stipulation;
and
- (3) **DISMISSES** this case from the Commission's docket of active cases and passes the papers herein to the file for ended causes.

COMMENTS

The parties are advised that pursuant to Rule 5:16(e) of the Commission's Rules of Practice and Procedure,⁷⁴ any comments to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen copies, within seven (7) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P. O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document that copies have been mailed or delivered to all other counsel of record and to any party not represented by counsel.

Respectfully submitted,

Alexander F. Skirpan, Jr.
Hearing Examiner

⁷⁴ 5 VAC 5-10-420 F.